

Amendments to House Bill No. 534
3rd Reading Copy

Requested by Senator Jim Shockley

For the Senate Judiciary Committee

Prepared by Jeremy Gersovitz
March 27, 2009 (11:25am)

1. Page 1, line 23.

Strike: "6"

Insert: "5"

2. Page 3, line 11 through page 4, line 3,

Strike: section 4 in its entirety

Insert: "NEW SECTION. **Section 4. Exceptions to custodial recording requirements.** A judge may admit statements or evidence of statements that do not conform to [section 3] if, at hearing, the state proves by a preponderance of the evidence that:

(1) the statements have been made voluntarily and are reliable; or

(2) one or more of the following circumstances existed at the time of the custodial interrogation:

(a) the questions put forth by law enforcement personnel and the person's responsive statements were part of the routine processing or booking of the person;

(b) before or during a custodial interrogation, the person unambiguously declared that the person would respond to the law enforcement officer's questions only if the person's statements were not electronically recorded;

(c) the failure to electronically record an interrogation in its entirety was the result of unforeseeable equipment failure and obtaining replacement equipment was not practicable;

(d) exigent circumstances prevented the making of an electronic recording of the custodial interrogation;

(e) the person's statements were surreptitiously recorded by or under the direction of law enforcement personnel;

(f) the person's statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state; or

(g) the person's statement was made spontaneously and not in

response to a question."

Renumber: subsequent sections

3. Page 4, line 5 through line 11.

Following: "INSTRUCTION."

Strike: "If" through "]." on line 11

Insert: "If the defendant objects to the introduction of evidence under [section 3] and the court finds by a preponderance of the evidence that the statements are admissible, the judge shall, upon request of the defendant, provide the jury with a cautionary instruction."

4. Page 4, line 13 through page 4, line 23.

Strike: section 6 in its entirety

Renumber: subsequent sections

5. Page 4, line 25.

Strike: "6"

Insert: "5"

6. Page 4, line 26.

Strike: "6"

Insert: "5"

- END -